

MS# 183195.01 (4967)
PATENTREMARKS

Applicant thanks the Examiner for the courtesy of a telephone interview on September 20, 2005. During the interview, Applicant's representatives Frank R. Agovino and associate Robert Enyard, discussed proposed amendments to the pending claims and the patentability thereof in view of the cited references. In particular, the arguments below were presented. The Examiner acknowledged that proposed amendments were in the right direction in that the cited references fail to teach or suggest determining a preferred one of one or more remote communication devices specified in a profile associated with the recipient as a function of a time period during which the voice message is received. Applicant provided the Examiner with a copy of proposed amendments to claim 1 and 18 for discussion purposes, but no exhibit was shown and no demonstration was conducted.

Applicant has thoroughly considered the Examiner's remarks in the July 28, 2005 Office action, and respectfully request further reconsideration of the application in light of the amended claims and the following remarks. Claims 1, 18, 28, 47 and 55 have been amended by this Amendment E. Thus, claims 1-13, 15-37, 47, 48, 50 and 55-58 are presented in the application for further examination.

Claims 1-3, 6, 7, 9, 11, 12, 16-19, 21-26, 28-33, 36, 37 and 55-58 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,823,047 B1 to Cruickshank (Cruickshank) in view of U.S. Patent No. 5,896,448 to Holt (Holt). Although the Office acknowledges that Cruickshank fails to disclose determining for each intended recipient, a preferred one of the specified communication devices by which to deliver a message to such intended recipient and updating the respective profile accordingly, the Office asserts it would have been obvious to modify Cheston using the routing apparatus as taught by Holt. (See Office action at page 4). However, even when combined as suggested by the Office, the combination fails to teach or suggest each and every element of the claimed invention. Thus, *prima facie* obviousness cannot be established. (See MPEP 2142 and 2143.)

Holt discloses a Personal Number Service (PNS) for improving the speed at which a call is routed to a subscriber of the service. More specifically, Holt discloses a PNS that improves the speed at which a call is directed to a particular destination number as defined in a routing list associated with the subscriber. As disclosed in Holt, a call completion probability indicator is maintained for each destination number in the routing list and is used for arranging the

MS# 183195.01 (4967)
PATENT

destination into a routing order that gives precedence to destination numbers that are more likely to result in successful routings. (See Column 4, lines 23-26). The probability indicator for each destination number in the routing list is a call success counter. Each time a call is successfully routed to a particular destination number, the corresponding success counter is updated. Thus, the probability of completing a call to a particular destination in the routing list will be proportional to the success counter. (See column 7, lines 45-49). In operation, the destination number that has the greatest number of successfully completed calls, as indicated by the corresponding success counter, will be tried before destination numbers that have fewer successful routings. (See column 5, lines 28-34). For example, if the called party receives more successful calls at a work number as opposed to a home number, all calls will be routed to the work number before being routed to the home number.

In contrast, the present invention does not merely identify the destination numbers that have more successfully completed calls, but rather predicts a preferred location based on the time of day and number of successfully completed calls. As described in the present application, "the system 200 learns, over time, that a particular user is nearly always accessible via her mobile phone *during certain hours of the day* and adjusts the user's profile accordingly." (See application page 11, paragraph 28). As a result, a voice message received between, for example, 5:00PM – 6:00PM may be routed to the called party's mobile number even though more calls are successfully completed at the called party's work number. To this end, amended claim 1, recites in part, a method that includes "determining, for each of the intended recipients, a preferred one of the specified communication devices by which such intended recipient should receive delivery or notification of voice messages directed to such intended recipient *as a function of a time period during which the voice messages are received* and updating the respective user profile accordingly." Amended claim 47 recites "determining a preferred one of one or more remote communication devices specified in a profile associated with the recipient *as a function of a time period during which the voice message is received*. Even when combined as suggested by the Office, Cruickshank and Holt fail to teach or suggest a method for determining a preferred communication device as a function of a time period during which the voice message is received as set forth in amended claims 1 and 47. As such, the Office should withdraw the rejection of claims 1 and 47 based on these references.

MS# 183195.01 (4967)
PATENT

Amended claim 18 recites an apparatus for recording and sending audio messages to an interactive voice response (IVR) system comprising "computer instructions ... configuring [a] processor to determine a preferred one of the one or more remote communication devices specified in the profile of the recipient at which to deliver the audio message *as a function of a time period during which the audio message is provided by the user* and to deliver the audio message to the intended recipient at the preferred communication device." Amended claim 28 recites "determining a preferred one of the one or more remote communication devices specified in a user profile associated with the recipient as a function of a time period during which the audio message is transferred to the audio file, and amended claim 55 states " learning over time which one of a plurality of remote communication devices specified in a profile associated with the intended recipient is preferred at which to notify the intended recipient of the received audio message based on a time period during which previous audio messages have been successfully received by the intended recipient at each of the plurality of remote communication devices" For substantially the same reasons the combination of Cruickshank and Holt fails to teach or suggest each and every element of claims 1 and 47, these cited references also fail to teach or suggest each and every element of claims 18, 28 and 55. Accordingly, applicant submits claims 18, 28 and 55 are allowable over the cited reference.

Applicant has reviewed the Examiner's reasons for rejecting the following dependent claims: Claims 4-5, 13, 15, 48, and 50 (U.S. Patent No. 6,330, 308 to Cheston (Cheston) in view of U.S. Patent No. 6,301,609 to Aravamudan in view of U.S. Patent No. 5,568,539 to Bergsman et al. (Bergsman) and further in view of U.S. Patent No. 6,233, 318 to Picard (Picard)); Claims 8 and 20 (Cruickshank in view of Holt and further in view Bergsman); Claim 10 (Cruickshank in view of Holt and further in view of Cheston; and claims 27, 34, and 35 (Cruickshank in view of Holt and further in view Aravamudan). For the reasons noted above, none of these references, whether considered alone or in combination, teach or suggest each and every element of applicant's amended independent claims 1, 18, 28, 47, and 55. Thus, the rejection of these claims should be withdrawn.

Independent claim 47 also stands rejected under 35 U.S.C. 103(a) over Cheston in view of Aravamudan in view of Bergsman et al. and further in view of Picard. However, it appears the Office primarily relied on the combination of Cruickshank and Holt. (See Office action at page 9). As discussed above, Cruickshank and Holt fail to teach or suggest a method for

MS# 183195.01 (4967)
PATENT

determining a preferred communication device *as a function of a time period during which the voice message is received* as set forth in amended claim 47. Nevertheless, none of the references cited by the Office, whether considered alone or in combination, teach or suggest each and every element of applicant's amended independent claim 47. Accordingly, the rejection of claim 47 should be withdrawn.

SUMMARY AND CONCLUDING REMARKS

In view of the foregoing, applicant submits that claims 1, 18, 28, 47 and 55 are allowable over the cited art. The remaining claims are dependent claims and are believed to be allowable for at least the same reasons as the independent claims from which they depend.

It is felt that a full and complete response has been made to the Office action, and applicant respectfully submits that pending claims 1-13, 15-37, 47, 48, 50 and 55-58 are allowable over the cited art and that the subject application is now in condition for allowance.

The fact that applicant may not have specifically traversed any particular assertion by the Office should not be construed as indicating applicant's agreement therewith.

Any required fees or overpayments should be applied to Deposit Account No. 19-1345.

Respectfully submitted



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